



October 18, 2006

Ms. Elaine M. Howle
State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Re: Draft Report, 2006 BSA Audit of the California Children and Families Commission

Dear Ms. Howle:

The California Children and Families Commission (the "Commission") has spent the past six days carefully examining the draft audit report (the "Draft Report") prepared by the Bureau of State Audits ("BSA") over the past six months. When this audit process started in March 2006, prompted by public concerns that public funds may have been used to support the now-failed Proposition 82, the Commission committed to cooperating fully with the BSA's efforts. We believe we have fulfilled that commitment, as your staff has repeatedly recognized throughout the audit process. The Commission's efforts to cooperate with the audit manifest its commitment to public accountability.

The Political Advocacy Question

We fully agree with several of the Draft Report's findings. For example, at the end of the Draft Report's review of the Commission's activities, the BSA presents its findings regarding the issue that began this process, *i.e.*, public concerns about improper use of public funds for political advocacy in the period leading up to the 2005 special election. The BSA concludes that the Commission's preschool ads furthered its statutorily-mandated duties; that "when we reviewed the timing and the content ..., nothing in the advertisements constituted political advocacy;" and that the Commission "had clear legal authority to conduct its public advertising campaigns related to preschool." Draft Report, p. 73.

Moreover, after six months of review, the BSA concluded that:

Although the three individuals who worked for one of [the Commission's] media contractors were also employed by the campaign committee for Proposition 82, we were generally able to determine that the state commission's payments to these individuals were consistent with the restrictions on the use of public funds for political purposes.

Draft Report, p. 74.

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Although we fully expected these findings, we are gratified by them nonetheless.

The Commission's Contracting Practices

The bulk of the Draft Report focuses on the Commission's contracting practices. We believe that the Draft Report lacks the context necessary to fully understand the constraints under which the Commission has been operating. Specifically, the Draft Report does not acknowledge the Commission's history of scarce resources for administration or the Commission's use of and reliance on other state agencies for advice regarding contracting practices, and as a check on those practices. When we expressed this concern to the BSA, it invited us to include such context in our response, and we do so below. We also include some clarifications of the Commission's position on certain issues within the Draft Report. Finally, we turn to the BSA's recommendations and the Commission's response to those recommendations.

The History and Context of the Commission's Contracting Practices

The Draft Report's critique of the Commission's contracting practices is very surprising, as throughout its short history the Commission has reached out to and relied upon multiple state agencies to assist it in complying with all state contracting laws. We also note that in the last year the Commission has made significant changes in its practices, in part due to the addition in July 2005 of a new Executive Director, the appointment in March 2006 of a new Commission chair, and the even more recent addition of a Chief Deputy Director and a Chief of Administration. With these varied perspectives, and in combination with the Commission's longer-term staff, the Commission has become proactive in identifying new processes, procedures, and policies that will formalize existing Commission practices, modify current practices as needed, and create new procedures to help the Commission efficiently and effectively achieve its statutory objectives.

It is important to put the Commission's administrative history in context so that the progress it has made, particularly in the last year, is apparent. As the San Diego Superior Court observed in 2000, the Commission began its existence in 1999 with a "skeleton" staff, and was immediately hit by litigation, including "17 Public Records Act requests and numerous discovery requests" that "diverted scarce resources of the Commission from performing other essential functions." *Cal. Assoc. of Retail Tobacconists, Inc. v. California*, (San Diego Superior Court, Case No. 732079), Final Statement of Decision (Dec. 7, 2000), p. 40. The Commission's resources remain scarce due to the notable and unique statutory cap on the Commission's administrative budget. The vast majority of California agencies operate without any comparable constraint.

Because it was a start-up agency, the Commission deliberately sought assistance from experienced state agencies, such as the Department of General Services, the Department of Finance, and the Attorney General's office, to assist it in compliance with all state laws, specifically including contracting laws. While the Commission retains responsibility for compliance with applicable state contracting requirements, it was reasonable for it to, and it did, rely on the input from each of these agencies as a basis for its understanding that it was complying with state contracting law and policy.

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For example, according to the State Contracting Manual ("SCM") drafted by the Department of General Services, Office of Legal Services ("DGS/OLS"), DGS approval of contracts "serves to assist state agencies by ... ensuring effective compliance with applicable laws and policies," "conserving the fiscal interests of the state and preventing improvident acts," and "applying contract knowledge and legal expertise prior to final approval." SCM 4.02(c). Virtually all of the contracts reviewed by the BSA were reviewed and approved by DGS/OLS. While the Commission understands that it, too, must be responsible for its contracting practices, the DGS/OLS approval of the vast majority of the contracts at issue indicated to the Commission that its contracting practices complied with state laws and policies.

In another example of the safeguards the Commission relied on, the Commission retained the Attorney General's office to advise the Commission on legal matters, including contracting laws, and attorneys from the Attorney General's office attended every Commission meeting. The Commission also contracted with the Department of Finance to perform annual audits of the Commission to ensure that the Commission was engaged in appropriate fiscal management. In the 2004 and 2005 fiscal audit reports, the Department found "no instances of noncompliance" with law, regulation, or contract that required reporting under generally accepted accounting principles and "no matters involving the internal control and its operation that [the Department] considers to be material weaknesses."

Thus, based on its own efforts and the safeguards provided by three other state agencies, the Commission historically understood that it was complying with state contracting laws and policies. Its understanding was bolstered by the 2004 BSA audit of the Commission. As noted on the BSA's website, "governmental audits by the State Auditor are an important cornerstone in the system of checks and balances expected by the people of California." (www.bsa.ca.gov/aboutus/statute.php.) At the end of its 2004 audit, which began in March and ended in July 2004, the BSA concluded that: "*The state commission consistently followed contracting rules applicable to all state agencies....*"

After validation like that, the Commission had no reason to believe that there was anything wrong with its contracting practices. While the Commission appreciates the Draft Report's new guidance on contracting issues, many of its findings pertain to issues the BSA reviewed in 2004 and did not "call out." The Commission regrets that it did not have the opportunity to understand and address these issues previously.

Some of the issues the BSA reviewed in 2004 include the following matters addressed in the Draft Report:

- The Draft Report indicates that payments of \$623,000 for three employees/subcontractors to a media contractor that occurred between February 2002 and December 2003 were not allowed under the terms of the contract. (Draft Report, pp. 20-23.) In 2004, the BSA reviewed the same file, which included all of the relevant invoices, but made no findings regarding this contract. Had the issues been raised in 2004, the Commission may very well have clarified the situation and proceeded consistent with the contract's terms.
- The BSA concludes that payment of \$50,000 to a media contractor for a Preschool for All Advocacy Plan was not contemplated in the contract and payment was inappropriate because the Commission never obtained a finalized

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plan. (Draft Report, pp 23-24.) Although the plan was presented to the Commission and paid for in 2003, the BSA reviewed this contract file in 2004 and made no findings regarding this payment.

- The Draft Report cites a March 2004 contract as having no schedules for progress and completion of work, leaving the Commission with “insufficient means with which to monitor its contractors.” (Draft Report, pp. 25-27.) The BSA reviewed this contract in 2004, but made no finding. The Commission may have been better able to address the issue in 2004 when the contract had just begun and expectations between the Commission and the contractor had not yet been settled by a two-year course of dealing. The June 2002 and October 2003 contracts cited on pages 26 and 27 of the Draft Report similarly were reviewed during the BSA’s 2004 audit, but the BSA made no findings regarding those contracts.
- The BSA indicates that best practices would suggest that the Commission’s five “most recent” media and public relations contracts should have contained specific clauses defining “out-of-pocket” costs. (Draft Report, pp. 27-28.) Three of these five contracts were in the file in 2004, and the BSA specifically reviewed two of them in 2004. The BSA did not recommend, in 2004, inclusion of an “out-of-pocket” cost definition in these types of contracts, or note the lack of such a clause as a deficiency. Both of the most recent media and public relations contracts were executed after the BSA issued its final 2004 audit report. Had the BSA made a recommendation in July 2004, it is likely that these two contracts would include the “out-of-pocket” language the BSA now identifies as a contracting best practice for state agencies.
- In the Draft Report, the BSA examines seven media and public relations contracts dating back to 1999 and states that the Commission failed to appropriately utilize workplans to manage these contracts. (Draft Report, pp. 28-30.) The BSA specifically reviewed two of the contracts cited, “Public Relations Contract #2” and “Media Contract #3,” in 2004. In fact, Public Relations Contract #2 is identified in the Draft Report as having the highest incidence of workplan deficiencies of any of the contracts examined, including six workplans without detailed budgets and two missing workplans. Nonetheless, the BSA made no workplan deficiency findings in 2004 and the Commission continued to administer the workplans consistent with the BSA’s 2004 conclusion that the Commission’s practices complied with contracting rules.
- The BSA cites an April 2004 invoice with insufficient documentation to support \$73,805 in charges. (Draft Report, p. 34.) That invoice was part of the contract file when the BSA reviewed it in 2004. All but one of the remaining unsupported charges cited in the Draft Report occurred during or after the 2004 BSA audit. (Draft Report, pp. 33-36.) Had the Commission been alerted to this issue in 2004, many, if not all, of the subsequent charges may have been handled much differently. Moreover, as to the \$191,000 in charges related to media subcontractors, the invoices from May 2004 to mid-April 2005 contain substantially equivalent information to that in the invoices for the same

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subcontractors in 2002 and 2003. If the BSA had noted that in 2004 the information in the earlier invoices was insufficient, the Commission would have taken action to require further support for future invoices.

- The BSA indicates that the Commission made advance payments to its public relations contractor in July 2003, December 2003, February 2004, and September 2004 for purposes of paying Community Based Organizations for their efforts in educating the public about the needs of California children in the first five years of life. (Draft Report, pp 37-38.) The BSA reviewed this file in April 2004, over a year after the first of these payments was made to the public relations contractor. The BSA now criticizes these four payments in support of the Community Based Organization program, three of which were in the file in April 2004, as well as one subsequent payment. Had the Commission been made aware of this issue in connection with the 2004 audit, it is quite possible that the September 2004 payment never would have been made or would have been structured differently.
- The BSA cites the Commission for failing to keep a copy of a state contract register advertisement in the file with the contract that was ultimately awarded in 2001 after 13 bids were received and reviewed. (Draft Report, pp. 48-49.) The BSA reviewed this contract in 2004 and made no findings of advertising problems. Regardless, this issue appears to be a one-time problem, as the BSA found no similar problems with other competitively-bid contracts. Moreover, it is highly likely that this contract was, in fact, advertised, since it did receive 13 bids.
- The BSA cites a February 2004 media contract amendment as an example of insufficient justification for a non-competitively bid contract amendment, one of six such amendments the BSA cites in the same section. (Draft Report, pp. 52-53.) In 2004, the BSA reviewed the contract file for the media contract at issue and made no finding that the amendment was insufficiently justified. Four of the five remaining amendments were executed after the BSA issued its 2004 audit report.
- The BSA cites seventeen agreements with other California agencies (interagency agreements) as having insufficient documentation that subcontractors were selected by competitive bidding processes or were exempt from such processes. (Draft Report, pp. 54-58.) In 2004, the BSA reviewed at least eight of the seventeen interagency agreement files cited in the Draft Report, and made no finding of non-compliance with subcontractor selection requirements.
- The BSA cites thirteen contracts that calculate permissible indirect costs by multiplying an agreed percentage against the full contract amount or all of the subcontract amounts found in the contract, rather than limiting the percentage application to the first \$25,000 of each subcontract under a single, primary contract. (Draft Report, pp. 58-59.) To illustrate this point, the Draft Report uses a November 2001 interagency agreement that the BSA reviewed in 2004, although the BSA made no findings related to incorrect calculation of indirect costs at that time. Indeed, during the 2004 audit, the BSA reviewed six of the

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thirteen interagency agreements it now cites as including incorrect calculations of indirect costs. In any event, the Commission has already addressed this issue, which appears to stem from staff's misunderstanding regarding how to calculate these fees.

- The BSA cites forty-three contracts and twenty-two amendments as approved by DGS after the date cited in the contract or amendment as the start date of the contract period. (Draft Report, pp. 62-65.) Thirty-six of the forty-three contracts and twelve of the twenty-two amendments were executed between 2000 and 2004. The BSA specifically reviewed seventeen of these thirty-six contracts and two of the amendments during the 2004 audit, and made no finding that the Commission had failed to use best practices with regard to their approval. The six contracts cited by the BSA that were executed in 2005 or 2006 would have been handled differently had the Commission been alerted to the problem in 2004.

In sum, given the Commission's history of working with other, more experienced and knowledgeable agencies, and given the BSA's 2004 conclusion that "[t]he state commission consistently followed contracting rules applicable to all state agencies," the Commission was both concerned and surprised by many of the Draft Report's findings. Nonetheless, the current audit will provide a template for the Commission to identify and correct weaknesses in its practices, policies, and procedures. This year the Commission is already a dramatically different agency than it was last year, due to the diligent and conscientious efforts of its Commissioners and staff to continuously improve in every area of operation. With the information we now have, we will work very hard to ensure that next week, next month, and next year the Commission becomes a model for state contracting. Indeed, many of the actions we outline below have already been implemented, either formally or informally, and the change in the Commission's operations are already apparent.

Clarifications of Specific Issues in the Draft Report

While the Commission does not dispute the Draft Report's overall conclusion that there is room to improve the Commission's contracting practices, there are some limited areas of the Draft Report that do not reflect the Commission's position or understanding of the facts.

Media Subcontractors as Employees. The Draft Report concludes that \$623,000 in payments to media subcontractors were impermissible under the terms of the media contract. Although determining that the retention of these subcontractors may have been permissible under the contract if they had been treated as subcontractors (Draft Report, pp. 21, 32), the Draft Report concludes that because they were employees of the media contractor rather than subcontractors, the payments were impermissible. (Draft Report, pp. 20-23.) We believe this finding excessively emphasizes the form of these individuals' engagement by the media contractor over its substance.

That is, the media contractor could have engaged these individuals as subcontractors. (Draft Report, p. 32 ("Although paying these individuals as subcontractors under its media contract was allowable in certain circumstances under the contract's terms. . . .").) That the media contractor or Commission staff may have called these individuals "employees" in some cases rather than "subcontractors" does not justify the rather harsh conclusion that "the state

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commission allowed its media contractor to circumvent the payment provisions of the contract.” (Draft Report, p. 22.) In fact, whether someone is an employee or an independent contractor is a highly fact-specific inquiry turning on many factors. *S.G. Borello & Sons v. Dept. of Industrial Relations* (1989) 48 Cal. 3d 341, 350-351; *Empire Star Mines Co. v. California Employment Commission* (1946) 28 Cal. 2d 33, 43-44.

Indeed, the media contractor did not even consistently describe these subcontractors as “employees,” and the reality appears to be that it treated them as subcontractors. While some of the media contractor’s e-mails discuss the three subcontractors as employees or state that the individuals are “technically” employees, other e-mails refer to them as contractors. Still other e-mails suggest that the media contractor did not direct the subcontractors as employees, and did not apply the same terms and conditions of employment to them that it did to its regular employees. In addition, it is our understanding that the media contractor did not provide these individuals with offices, e-mail accounts, computer server access, or other resources that it generally provided to its regular employees. And perhaps the most important evidence on this issue, *i.e.*, the media contractor’s invoices to the Commission, describe the individuals as subcontractors. In short, the weight of the evidence suggests that the media contractor actually considered these individuals consultants rather than employees, making the Commission’s payment to them much more in line with the terms of the contract.

In any event, this finding is directed at an isolated issue. While the Commission has no reason to believe the situation will be repeated, it will ensure through staff training that it understands the concerns and will clarify any future contractor/subcontractor relationships that are unclear.

Work Within the Scope of the Media Contract. The Draft Report also indicates that payment to the subcontractors was improper because, according to the BSA, the activities performed by the individuals were outside the scope of the contract. (Draft Report, pp. 20-24.) The Commission does not believe this is a wholly accurate depiction of the subcontractors’ activities. We very recently learned that the subcontractors spent a good deal of time on activities like developing media/advertisements, aligning the Commission’s media strategy with its programs, and implementing media campaigns addressing preschool and healthcare for children. The media contract at issue includes in its scope of work conceptualizing, developing, pre-testing, and implementing advertising campaigns, and ensuring advertising content compliments the Commission’s program activities. Thus, it appears that at least some of the activities performed by these subcontractors were within the scope of the contract, although the Commission understands that the lack of documentation in its files renders a precise understanding difficult.

The Draft Report also concludes that development of the Preschool for All Advocacy Plan was outside the scope of the media contract, which the Draft Report describes as “purchasing printed ad space or broadcast media time.” (Draft Report, pp. 23-24.) The contract specifically states that the contractor is “responsible for, but not limited to,” a variety of activities including developing “a plan to ensure that advertising content is consistent with and complementary to CCFC-funded program activities,” and conducting research and market analysis to provide information about “how to best position CCFC public education advertising messages relative to other social marketing and advertising campaigns and the relative merit of selected strategies and messages.” Thus, developing a Preschool for All Advocacy Plan that

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encompasses not only traditional media but social marketing and advertising campaigns appears to be within the scope of the contract.

Draft Report Title. The Draft Report's title reflects only the first two chapters of the report regarding contracting. Given that the audit was prompted by public concerns that the Commission spent tens of millions of dollars improperly on advertising the benefits of preschool, and given that the BSA found that the Commission's advertising was well within its statutory authority, did not constitute political advocacy, and met the constraints on the use of public funds for political advocacy, the Commission expressed its concern to the BSA that the Draft Report's title did not reflect the BSA's findings on these critical issues. The BSA indicated that selection of the report title was within its discretion and it chose to leave the title as reflective of only the contracting chapters. The Commission disagrees with this exercise of the BSA's discretion.

Chapter Two Title. The title of Chapter Two indicates that inconsistencies in the Commission's contracting practices resulted in "violations of state laws and policies." The Commission requested that the BSA specify within Chapter Two where it found violations of law as opposed to violations of policy. The BSA indicated that it would review the chapter to ensure clarity, but indicated that it had found only one instance that it believed was a violation of state law (as opposed to policy). With this understanding, the Commission requested that the title of Chapter Two be changed to reflect that inconsistencies in the Commission's contracting practices resulted in "violations of state policies and, in one case, of state law." The BSA indicated it would consider the request but, to the Commission's knowledge, it has not modified the chapter title.

CTA Improving Classroom Education Proposed Ballot Measure. The BSA examined the Commission's payment to its subcontractors who also worked on the 2003/2004 California Teachers Association's ("CTA") Improving Classroom Education proposed ballot measure, for the purpose of determining whether the Commission improperly spent public funds on political advocacy. (Draft Report, pp. 74-78.) The Draft Report focuses on the period between April 8, 2004, when the CTA withdrew its support for its own proposed ballot measure (thereby rendering it a nullity), and August 18, 2004, when the Secretary of State officially determined that the initiative had failed to qualify for the ballot. The BSA indicates that the documents in the Commission's files are insufficient to establish what the subcontractors were doing when they worked for the Commission's media contractor. The BSA therefore theorizes that the subcontractors might have been working on the Improving Classroom Education proposed ballot measure. The Commission disagrees with this theory.

As the BSA acknowledges in the Draft Report, the CTA withdrew its support on April 8, 2004, and both the former chair of the Commission and one of the subcontractors interviewed by the BSA indicated that the proposed ballot measure was "dead" as of that date, *i.e.*, three weeks before the subcontractors resumed working with the Commission's media contractor. There is no evidence that *anyone* performed *any* work on the proposed ballot measure after the CTA withdrew its support. Moreover, after six months of unrestricted access to the Commission's files and systems and after interviewing the former Commission chair, the former Commission Chief Deputy Director, and the subcontractors, the BSA found no evidence that the subcontractors performed any work on the proposed ballot measure during the period in question. In short, all the circumstances and evidence suggest that the subcontractors did not work on the proposed ballot measure while they worked with the Commission's media

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contractor. As a result, the Commission does not find any support for the theory that because Commission records are not fully developed, these subcontractors might have been working on activities related to the initiative.

Use of Subcontractors under Interagency Agreements. The Draft Report indicates that the use of subcontractors under seventeen interagency agreements lacked sufficient justification/documentation. (Draft Report, pp. 54-58.) Ten of the agreements, including eight reviewed by the BSA in 2004, included express language that subcontractors would be used. (Some contracts specifically identified the subcontractor(s) and provided specific budgets and task lists for them.) These ten contracts were approved by the Department of General Services/Office of Legal Services. Written approval by DGS/OLS is one of the ways that agencies can comply with subcontracting requirements for interagency agreements. The Commission therefore believed it had complied with the requirements when it obtained DGS/OLS approval of the contracts.

To support its alternative conclusion regarding these contracts, the BSA called an attorney at DGS/OLS and obtained an oral opinion that DGS/OLS written approval is provided in a document that is separate from the contract itself. The Commission notes that the State Contracting Manual, drafted by DGS/OLS, makes no such distinction in whether written approval of subcontractors is included within, or separate from, the contract itself. We have never seen any written policy or other documentation that the official position of DGS/OLS is as reported to the BSA. While the Commission does not dispute the DGS/OLS's attorney's position and will treat these contracts differently in the future, the DGS/OLS requirement of a second document confirming the provisions of a DGS/OLS approved contract is not apparent in the provisions of the SCM. State agencies may appreciate more specific direction on compliance with this specific practice of DGS/OLS.

Justification for Non-Competitively Bid Contract. The Draft Report identifies one contract, let in 1999/2000, as problematic in its justification for non-competitive bidding and in its justification of the contract amount. (Draft Report, pp. 50-52.) But as the report acknowledges (p. 52), the Commission let two other non-competitively bid contracts in 2000 that were challenged in litigation, in part on the basis that the justification for non-competitive bidding and the justification of the contract amounts were insufficient. In that case, the court held that under the circumstances then prevailing at the Commission, the Commission's acts in non-competitively bidding those two contracts and in setting the contract prices were reasonable. Although no one challenged the non-competitive bid status or the cost-justification of the third contract, it was let at the same time and under the same circumstances as the two other contracts. All three of these contracts are a product of difficult circumstances recognized by the San Diego Superior Court in upholding the validity of the two contracts before it. We feel confident that had the third contract been included in the same litigation, the court would have reached the same conclusion. We also note the Superior Court's finding with respect to the two litigated contracts that the state received its money's worth.

The BSA Recommendations and the Commission's Responses

The Commission has carefully reviewed all of the BSA's recommendations in regard to Chapter One (Contract Management) and Chapter Two (Contracting Practices). As to Chapter 3 (Political Advocacy), the BSA had no recommendations.

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The Commission believes that the majority of BSA's recommendations regarding Chapters One and Two result from a lack of updated training programs and procedures for contracting. We are addressing the recommendations as follows:

1. Policies. Since mid-2005, the Commission has been re-examining its existing administrative structure. In mid-2006, when our new Chief Deputy Director (previously the Board of Equalization's Chief of Customer and Taxpayers Services Division) and new Chief of Administration (previously the Department of Education's Manager of Funding, Allocations, and Administrative Services) were selected, the focus turned from larger reorganization issues to specific needs like revised policies and procedures. We have developed an outline for a new Administrative Policies and Procedures Manual that will include a section on contracting generally and on contracts unique to the Commission specifically. The policies will cover:
 - a. Key contract compliance standards and policies to address consultant service contracts, interagency agreements, and contracts with local governments;
 - b. Guidelines for reviewing and approving subcontractors in advance, including methods of documenting the approvals;
 - c. Guidelines for oversight of subcontractor usage in interagency agreements, including required documentation of competitive bidding or other avenues for appropriate selection of subcontractors;
 - d. Competitive bidding, including steps to be taken when fewer than three bids are received, and standardized documentation requirements for scoring competitive bids. We will also address appropriate use of non-competitive bids, including justification requirements;
 - e. Advertising proposed contracts for bid;
 - f. Calculating indirect costs on subcontracts under interagency agreements;
 - g. Media and public relations contract management, addressing issues specific to these types of contracts. Workplan requirements, review, and approval will be included;
 - h. Invoice review and approval, including acceptable documentation of expenses and other charges;
 - i. Documentation and filing of all contract documents; and
 - j. Contract life cycles, including planning for the time required to both develop the contract and obtain approval from DGS in advance of the contract start date.

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2. Training. All staff who have responsibility for contracting will now be required to complete specific training regarding contracts, and to renew their training periodically to ensure that they are exposed to and retain all key contracting concepts and stay informed of new developments in state contracting requirements. Training will be tailored to each staff member's level of responsibility for contracting. Training requirements will be outlined in each staff member's individual development plans, which form the basis for annual evaluations. Specifically:
 - a. We have already sent multiple staff members to training provided by the Department of General Services on various contracting issues, including scope of work, documentation, non-competitive bids, and evaluation criteria. We have a schedule of classes for staff members to ensure that all staff members complete all required DGS classes no later than July 2007. Because DGS's classes have limited space, last month we requested that DGS perform on-site training with a large group of our staff. DGS has not yet responded to our request. If DGS is able to accommodate our request, we anticipate that all staff will complete all required DGS training early next year.
 - b. We have already conducted in-house classes, developed and administered by our new Chief of Administration, regarding contract management. We plan to continue this program to include formal training sessions depending on need but on a frequency of three to twelve sessions annually.
 - c. As noted above, we are reviewing and revising all of the Commission's policies. As they relate to contracting, all staff with contract-related responsibilities will receive training on the Commission's policies.
 - d. We have assigned the coordination of staff training to a staff member, who will provide quarterly reports to senior management on the status of staff training.
3. We have already drafted a board procedures manual and will finalize and adopt it for use by the Commission soon. We believe that a board procedures manual will assist the Commissioners in understanding their roles and responsibilities, both at meetings and in other interactions with staff. We believe that providing Commissioners with tools to understand the state process will result in more informed interactions between Commissioners and staff both at and outside of Commission meetings.

As to the remaining issues, the Commission has suspended the MOU program. No new allocations under Health and Safety Code section 130125(i) will be made until the Commission's counsel can review the statutory authority previously relied on for this program and advise the Commission whether or not the program may continue and, if so, under what circumstances. In addition, the Commission will continue its discussion with its counsel regarding the Commission's authority to delegate contracting authority.

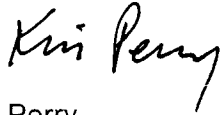
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Conclusion

In conclusion, the Commission appreciates the BSA's hard work and its findings. We are pleased that the BSA has confirmed that the initial basis for requesting the audit – concerns that the Commission had misspent public monies on political advocacy and had coordinated its spending with the proponents of Proposition 82 – was unfounded. The Commission is also pleased with the BSA's provision of a roadmap, through its audit report, for the Commission to make itself a model for state contracting practices. We are deeply committed to that objective, which we have already begun to pursue aggressively by implementing new policies and practices and by improving staff training.

Sincerely,

A handwritten signature in black ink that reads "Kris Perry". The signature is written in a cursive, flowing style.

Kris Perry
Executive Director

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